

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Treatment of Rate Incentives)
and De Minimis Rate Increases)
for Price Cap Purposes)

Docket No. RM2014-3

**VALPAK DIRECT MARKETING SYSTEMS, INC. AND
VALPAK DEALERS' ASSOCIATION, INC.
REPLY COMMENTS ON NOTICE OF
PROPOSED RULEMAKING
(April 16, 2014)**

Order No. 1879, "Notice of Proposed Rulemaking on the Treatment of Rate Incentives and De Minimis Rate Increases for Price Cap Purposes," set April 16, 2014, as the deadline for Reply Comments.¹ Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. ("Valpak") jointly submit the following Reply Comments.

REPLY COMMENTS

First, most of the Initial Comments noted potential problems with the Commission's proposed definition of "Rate of general applicability" in proposed rule 3010.1(g). *See* PostCom Initial Comments, pp. 3-6; NAPM, *et al.* Initial Comments, p. 4; NPPC Initial Comments, pp. 3-4; and Postal Service Initial Comments, pp. 3-4. Valpak agrees with these comments that this definition needs improvement and clarification.

Second, Valpak supports proposed rule 3010.24 with respect to rates which are not of general applicability, preventing them from being included in the price cap calculation. This

¹ *See* 79 Fed. Reg. 5355 (Jan. 31, 2014).

prohibits the Postal Service from increasing the price cap based on certain temporary promotional pricing.

The Commission's proposed rule formalizes its established practice that temporary promotions should not be recognized in the price cap calculations. The Commission followed this practice in Docket Nos. R2009-3, R2009-5, R2010-3, R2011-1, R2011-5, R2012-6, and R2012-9. Valpak incorporates by reference its previous comments in Docket No. RM2013-2, Valpak Initial Comments, pp. 3-6. Although the Commission broke from this practice in Docket No. R2013-1, it returned to its principled stance in Docket No. R2013-6 (the Tech Credit proposal).

The Postal Service "opposes the exclusion of rate incentives not of general applicability from being included in the calculation of the annual price cap limitation." Postal Service Initial Comments, p. 5. As the Commission's proposed rules would allow the Postal Service to recover revenue forgone from those rate incentives which are of general applicability, the Postal Service's goal is to be able to recover price cap authority from every single price incentive and promotion. The Postal Service appears to be grasping at any straw to justify increasing the revenues under the PAEA price cap.

The Postal Service criticizes the Commission's rationale for proposed rule 3010.24 which is protection of mailers not eligible to participate in those promotions:

Though the Commission finds it unfair to force mailers (who do not participate in a rate incentive) to fund reduced rates for other mailers, this type of **cross funding** it an inherent aspect of the price cap.... The result of this improper and inconsistent treatment would be to keep the Postal Service from using its entire CPI pricing authority ... and to discourage the Postal Service from developing targeted rate incentives that could more

effectively drive beneficial mailer behaviors. Consequently, the Postal Service encourages the Commission to allow all rate incentives to be included in the price cap calculations.... [*Id.*, pp. 5-6 (emphasis added).]

The Postal Service's "cross funding" argument — that one mailer's rates should subsidize another mailer "is an inherent aspect of the price cap" — is unexplained, curious, and wrong. It appears to urge the Commission to disregard the statutory requirements of Title 39,² which require fair and compensatory pricing. The Commission explained that it designed its proposed rule to protect mailers who are not participating in Postal Service pricing experimentation, not as a method of increasing cross-subsidies.

The Postal Service also explains that proposed rule 3010.24 will "discourage the Postal Service from developing targeted rate incentives that could more effectively drive beneficial mailer behaviors." There is no evidence this has been true in the past. However, even if true, the best results for the Postal Service and for mailers are usually obtained by reductions of tariff rates or discounts available to all mailers.

The Postal Service has not given the Commission an adequate reason to change proposed rule 3010.24.

Respectfully submitted,

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² See, e.g., 39 U.S.C. § 101(d) ("Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.").

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